

REMARKS

Claims 1-29 remain in the application for consideration. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application

Non-Statutory Double Patenting:

Claims 1-3, 5 and 11-20 stand provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-3, 7, 12, and 13 of co-pending and commonly-assigned U.S. Application No. 09/991,526. Applicant respectfully requests that this rejection be held in abeyance until the indication of allowable subject matter.

35 U.S.C. § 103

Claims 1, 2 and 4 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,417,862 to Brothers et al. (hereinafter "Brothers").

Claims 3, 5 and 6-10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brothers in view of U.S. Patent No. 6,762,760 to Deering.

Claims 11-29 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brothers in view of Deering and U.S. Patent No. 6,580,430 to Hollis et al. (hereinafter "Hollis").

The Claims

Claim 1 recites a method for rendering a visual scene comprising [emphasis added]:

- measuring a travel distance *through a gaseous object*;
- converting the gaseous object distance to a color component; and
- blending the color component of the *gaseous object* with a color component of a *non-gaseous object* to produce a pixel in the visual scene.

In making out the rejection of this claim, the Office states that Brothers discloses all of the claim's subject matter except for converting a gaseous object distance to a color component. The Office then argues that Brothers teaches using interpolating circuitry to interpolate the distance z to the color component which depends on variable z . Further, the Office argues that it would be obvious to utilize the linear interpolation as taught in Brothers for interpolating or converting the distance z to a color component because "when the fog function equals to zero and the display color would equal the true color which including red, green and blue, it means the distance has been converted to the true color...." See, e.g. Office Action page 6, first paragraph.

Applicant respectfully submits that the Office has not established a *prima facie* case of obviousness for at least two reasons. First, neither Brothers nor the Office's reasoning supply all of the features of this claim. Second, the Office's stated motivation for making the modification of Brothers simply makes no sense.

Addressing the first reason the Office has not established a *prima facie* case of obviousness, consider the following. Brother's discusses the notion of a true color and a fog color. The true color is the color of an object when it is close to the viewer. The fog color is a color that accounts for the phenomena that

distant objects become fuzzy and blurred and appear to fade in color. See, e.g. column 3, lines 1-10.

Applicant can find no disclosure or hint of a *gaseous object* and a *non-gaseous object* as those terms are used in the claim and discussed in the specification. If the Office is of a different opinion, Applicant kindly requests the Office to specifically identify what it considers to be such objects and how such objects are processed in a manner that meets the subject matter of this claim.

Accordingly, for at least this reason, this claim is allowable.

In addition, the Office's stated motivation to make the modification of Brothers simply re-states notions that are discussed in Brothers. The Office makes no attempt to independently reason why such a modification would be motivated. As such, the Office's stated motivation makes no sense and is misplaced.

Accordingly, for this additional reason, this claim is allowable.

Claims 2-4 and 6-7 are allowable as depending from an allowable base claim.

Claim 5 recites one or more computer-readable media comprising computer-executable instructions that, when executed, perform a method comprising:

- measuring a travel distance through a gaseous object;
- converting the gaseous object distance to a color component; and
- blending the color component of the gaseous object with a color component of a non-gaseous object to produce a pixel in the visual scene.

This claim is rejected for the same reasons that claim 1 is rejected. For all of the reasons set forth above with respect to the Office's failure to establish a *prima facie* case of obviousness, this claim is allowable.

Claim 8 recites a graphical display system for rendering a scene, comprising:

- a gaseous phenomena generator, configured to (i) determine a distance traveled through a gaseous phenomenon from a reference point based upon a viewpoint of a user; (ii) convert the distance traveled to an attenuation factor; and
- a blending unit, configured to blend a pixel color absent gaseous phenomenon with a pixel color value of the gaseous phenomenon based on the attenuation factor, to render a final pixel color for a portion of the gaseous phenomenon.

In making out the rejection of this claim, the Office argues that Deering discloses all of this claim's subject matter except for converting the distance traveled to an attenuation factor. For this feature, the Office relies on Brothers citing to column 3, lines 23-66 for support. Based on this, the Office argues that the combination of Deering and Brothers would be motivated "because using attenuation factor, it would increase the accuracy of the interpolation to produce the color display."

The Office's rejection is problematic for a couple of different reasons. First, from a technical standpoint, it does not appear that Deering suffers from a problem that would be mitigated by incorporation of an attenuation factor as argued by the Office. Thus, from a technical standpoint, the Office's motivation to combine these references does not appear to have support in either reference. Second, and perhaps more importantly, the Office's stated motivation to make the

combination is akin to arguing that it would be obvious to combine the references because doing so would make things operate better. The Office is respectfully reminded that such a broadly stated motivation does not rise to the level of supporting a *prima facie* case of obviousness. Such a broadly stated motivation could seemingly support any modification of a reference without regard to the specific contexts of the references. The motivation to modify or combine references must be stated with particularity. As such, and for this additional reason, the Office has failed to establish a *prima facie* case of obviousness.

Claims 9-13 are allowable as depending from an allowable base claim.

Claim 14 is rejected for the same reasons as set forth in the rejection of claim 8. For all of the reasons set forth above with respect to the Office's failure to establish a *prima facie* case of obviousness, this claim is allowable.

Claims 15-16 are allowable as depending from an allowable base claim.

Claim 17 is rejected for the same reasons as set forth in the rejection of claim 5. For all of the reasons set forth above with respect to the Office's failure to establish a *prima facie* case of obviousness, this claim is allowable.

Claim 18 is rejected for the same reasons as set forth in the rejection of claim 1. Applicant respectfully notes that this claim uses terminology that does not appear in claim 1. Accordingly, Applicant is unclear on how Brothers is being applied by the Office in this particular instance. Applicant respectfully requests clarification on this point. Regardless, this claim is allowable.

Claims 19-24 are allowable as depending from an allowable base claim.

Claim 25 is rejected for the same reasons that claims 18, 19 and 20 are rejected. As noted above, the Office did not specifically apply the reference to

claim 18. As such, Applicant is unclear as to the Office's position on this reference. Furthermore, had the Office applied the reference, the rejection of claim 25 would not be proper insofar as claim 25 contains terminology that does not appear in claims 18, 19 and 20. As such, Applicant is further unclear on how the references used by the Office would be applied to the specific subject matter of this claim. As such, the Office has failed to establish a *prima facie* case of obviousness and this claim is allowable.


Claims 26-29 are allowable as depending from an allowable base claim.

Conclusion

All of the claims are in condition for allowance. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowance, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Date: 9/21/05

Respectfully Submitted,

By: 
Lance R. Sadler
Reg. No. 38,605
(509) 324-9256 x226